IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRD DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NOs.9591 and 9594 of 2000

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1. WRIT PETITION NO.9591 of 2000

Between:

The APSRTC, rep. by its Depot Manager, Hyderabad-1 Depot, Hyderabad.

...PETITIONER

AND

Sri M. Damodar Reddy S/o. Kodanda Reddy,
Via Kalvakurthy, Mahaboobnagar District, C/o. V. Narasimha Goud, Advocate, Plot No. 63, Pragathinagar, Near Hyderabad Public School, Ramanthapur, Hyderabad.

...RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Certiorari by calling for the records in I.A.No.207 of 1995 in I.D.No.2 of 1994 dated 08.09.1999 on the file of the Hon'ble Labour Court-I, Hyderabad and quash the order.

Counsel for the Petitioner: MR.V.T.M.PRASAD

Counsel for the Respondent: MR.V.NARASIMHA GOUD

2. WRIT PETITION NO.9594 OF 2000

Between:

The APSRTC rep. by Depot Manager,
Hyderabad-I Depot, Hyderabad .

...PETITIONER

AND

Sri M. Samodar Reddy S/o Kodanda Reddy, Via Kalvakurthy, MBBR Dist.
C/o V. Narasimha Goud, Advocate Plot No.63, Pragathi Nagar
Near Hyderabad Public School, Ramanthapur, Hyderabad.

...RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, Order or direction more particularly one in the nature of writ of Certiorari by calling for the records in the M.P.No.19/1997 dated 27.10.1998 on the file of the Hon'ble Labour
Court-I, Hyderabad and quash the order.

Counsel for the Petitioner: MRS.NANDA R. RAO

Counsel for the Respondent: MR.V.NARASIMHA GOUD

The Court made the following:

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NOs.9591 and 9594 of 2000

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COMMON ORDER:

Heard the learned standing counsel for APSRTC and the learned counsel for the respondent.

Since the parties and the questions are same, arising out of common proceedings, these two Writ Petitions are taken up together for disposal.

The petitioner in these two Writ Petitions seeks to assail the order dated 27.10.1998 in M.P.No.19 of 1997 and the order dated 08.09.1999 in I.A.No.207 of 1995 in I.D.No.2 of 1994, on the file of the Labour Court-I, Hyderabad, claiming the wages from the date of the award passed by the Labour Court-I, Hyderabad.

The learned standing counsel appearing for the petitioner strenuously contended that having regard to the fact that the respondent himself was responsible for the accident as a result of which, there were some casualties and hence, no indulgence can be shown on the part of the respondent. Further, it is also his case that the petitioner was set

ex parte and held that the petitioner could not possibly substantiate its defence by

way of evidence. Even though the very application was allowed on the earlier occasion, this Court set aside the same for passing a reasonable order. In spite of the same, the Labour Court did not consider the reasons shown by the petitioner for not providing an opportunity. That apart, the respondent is not entitled to the wages as claimed, unless and until an opportunity is given to contest the I.D.No.2 of 1994.

The learned counsel appearing on behalf of the respondent sought to suspend the impugned orders on the ground that the initial award is based on merits and especially on the basis of the material as produced by him and there was no attempt on the part of the petitioner to appear and contest the claim. Therefore, no indulgence needs to be shown. Further, it is also pointed out that in spite of the opportunity given, the same was not availed and therefore, there are absolutely no merits in the petitioner's application and further, the respondent would be entitled to the back wages from the date of the award.

Considering the submissions made and also on perusal of the material available on record, the only question which crops up for consideration is as to whether the petitioner is entitled for any opportunity to contest before the Labour Court?

Admittedly, the respondent was working initially as a conductor on the relevant date and the officials of the petitioner themselves sent him on duty as a driver, which resulted in an accident and ultimately, leading to the present proceedings. In the said accident, there were some casualties. Since the respondent was removed from service, he had availed the remedy under the Industrial Disputes

Act, 1947 and the same was taken as I.D.No.2 of 1994.

In spite of the service of notice, no counter-affidavit was filed. The Labour Court observed no serious conduct of the petitioner in its order. Though the said application was allowed earlier, the same was set aside by this Court directing the Labour Court to pass a reasonable order. Once again, the Labour Court had taken up the proceedings and passed the orders, rejecting the application, having not satisfied with the reasons given by the petitioner. It is specifically pointed out therein that in spite of such opportunity being given and the matter being undergone about thirteen adjournments, no counter-affidavit was filed and the petitioner was set *ex parte*. The matter was also taken for arguments at a later stage. In spite of the same, there was no attempt on the part of the petitioner to contest the case.

Having regard to the fact as arrived at by the Labour Court as to the absence of the petitioner being almost willful, I do not find any justification to interfere with the same in exercise of the powers under Article 226 of the Constitution of India. Further, even it has to be seen that the order was passed as long back as on 19.04.1995 and the respondent has already been reinstated without back wages or any other monetary benefits, but with continuity of service. Learned counsel for the respondent squarely submits that the respondent is happy with the reinstatement and he had been discharging his duties to the utmost satisfaction of the authorities and further, there would not be any claim for any back wages at any later point of time. In view of the same, I do not find any merits in the first Writ Petition.

Accordingly, the first Writ Petition is dismissed. As regards the second Writ Petition is concerned, there is no dispute with regard to the back wages which were

ordered by the Labour Court and which have remained unpaid. In the circumstances, I do not find any merits in the second Writ Petition also. Accordingly, the second Writ Petition is also dismissed.

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(B.PRAKASH RAO, J)

3rd February 2005

RRB

ASSISTANT REGISTRAR

//True Copy//

SECTION OFFICER

Copy To:

1. The Depot Manager, APSRTC, Hyderabad-I, Hyderabad.
2. Two CD copies.